

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

LINCOLN ANTHONY MOODY,)	
)	
Petitioner,)	
v.)	Civil Action
)	No. 10-3367-CV-S-ODS-H
MARTY C. ANDERSON, Warden,)	
United States Medical Center for)	
Federal Prisoners,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Petitioner, an inmate confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas pursuant to 28 U.S.C. § 2241. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner has failed to state a constitutional violation, it must be recommended that he be denied leave to proceed in forma pauperis.

After the Show Cause Order was filed, respondent filed a response. Petitioner then filed a traverse in which he reiterated the allegations of his original petition. Specifically, petitioner alleges that his constitutional and statutory rights have been violated because the Medical Center has failed to provide items necessary to perform the Native American Sweat Lodge Ceremony at the Medical Center. He asserts that respondent fails to provide traditional rocks, sweet grass, or a sufficient amount of tobacco to properly conduct the Sweat Lodge Ceremony.

This Court ordered that respondent address the limited issue of whether rocks are provided

in sufficient quantity to properly maintain heat in the sweat lodge and properly conduct the Native American Sweat Lodge Ceremony at the Medical Center. Respondent thereafter filed its Report to the Court.

In that report, respondent states that staff in the Chaplaincy Department at the Medical Center had consulted with a Native American spiritual leader in the local community, prior to petitioner having filed the original habeas petition. They sought the advice of that leader regarding whether the amount of rocks provided by the department was sufficient for a sweat lodge ceremony lasting approximately four hours, which is how long the ceremonies last at the Medical Center. It was determined, through visual demonstration, that the amount of rocks was sufficient. Respondent also submits that the rocks can be used multiple times, and that more rocks are provided as needed. Additionally, respondent states that the Medical center, as of February 22, 2011, had obtained a large quantity of lava rocks, which are preferred for use in sweat lodge ceremonies. Those rocks will be used for all sweat lodge ceremonies held at the Medical Center, and the quantity should last for several years. [Respondent Ex. 1, ¶ 5].

Having fully reviewed the record, the Court finds that it must be recommended that the petition for habeas corpus relief be dismissed without prejudice. It is clear that petitioner has failed to state a constitutional violation or statutory violation regarding the sweat lodge ceremonies at the Medical Center. See Patel v. Bureau of Prisons, 515 F.3d 807, 813 (8th Cir. 2008).

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 22 of the United States District Court for the Western District of Missouri,

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis, and that the

petition for habeas corpus relief be dismissed without prejudice.

/s/ James C. England
JAMES C. ENGLAND
United States Magistrate
Judge

Date: 3/16/11